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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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DAN DALE KELLY,

Plaintiff,

*versus*

OFFICER SCOTT G. LISENBY,  
in his Individual and Official  
Capacities, SERGEANT AL  
JOHNSON, in his Individual and  
Official Capacities, OFFICER  
FRANK COFFIN, OFFICER S.K.  
TOLLEY, and TWO UNKNOWN  
OFFICERS OF THE BEAUMONT  
POLICE DEPARTMENT, in their  
Individual and Official Capacities, and  
THE CITY OF BEAUMONT, TEXAS,

Defendants.

CIVIL ACTION NO. 1:04-CV-479

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, for pretrial proceedings pursuant to Order of Reference entered on July 28, 2004. The court has received and considered the report of the United States magistrate judge, who recommends that the court enter judgment pursuant to settlement upon receipt of closing papers from the parties.

The magistrate judge's report is hereby **ADOPTED**. The purpose of the referral having been served, it is further

**ORDERED** that the reference to the magistrate judge is **VACATED**. It is further

**ORDERED** that all motions by either party not previously ruled on are hereby **DENIED** as moot.

SIGNED at Beaumont, Texas, this 15th day of September, 2006.

*Marcia A. Crone*  
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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE